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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/550,002   | 09/23/2005  | Mugihei Ikemizu      | 2936-0249PUS1       | 1240             |
| 2292   | 7590        | 01/29/2010           | EXAMINER            |                  |
| BIRCH STEWART KOLASCH & BIRCH<br>PO BOX 747<br>FALLS CHURCH, VA 22040-0747 |             |                      |                     | CORMIER, DAVID G |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 1792   |             |                      |                     |                  |
| NOTIFICATION DATE  |             | DELIVERY MODE        |                     |                  |
| 01/29/2010   |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/550,002             | IKEMIZU ET AL.      |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | DAVID CORMIER          | 1792                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 October 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-5,7,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-5,7,8,10 and 11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Arguments/Amendments***

1. This Office action is responsive to the amendment filed on October 26, 2009. Claims 1, 3-5, 7, 8, 10 and 11 are pending. Claims 1 and 10 have been amended, and Claim 11 is new.
2. Claims 1, 3, 4 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hird (WO/01/071084) in view of Ando et al. (JP 2001-276484), and Claims 5, 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hird, in view of Ando, and further in view of Jeon et al. (US 6,286,344). Applicant's amendments and arguments are not persuasive. Applicant has amended Claims 1 and 10, specifically the controller limitations, in an attempt to add "structure" to the controller; however, this amendment is not seen as providing any "structure" to the controller. If Applicant wishes for the controller limitations to be given patentable weight, those limitations must recite that the controller is "configured to" or "programmed to" perform those tasks which are to be given patentable weight. Merely reciting how the controller will be used is still considered to be intended use of the controller (please note this was generally indicated in the Office action of March 23, 2009 at page 4).
3. Applicant has also requested guidelines as to why the phrases "in which laundry is put," "that supplies water to the laundry tub," "that agitates the laundry in the laundry tub," "for eluting metal ions...to water," and "for sensing imbalance...the laundry tub" are

being considered intended use. The Examiner's position is that all of those limitations are not defining structure, only defining some process describing how the apparatus can be used. For example, putting laundry into the tub is not being given patentable weight because Applicant is not positively reciting laundry being in the tub, only that laundry can be put in the tub. A similar analysis applies to the other limitations.

### ***Claim Objections***

4. Applicant is advised that should claims 3 and 7 are be found allowable, claims 4 and 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
5. Claim 10 is objected to because of the following informalities: the control unit is misspelled "control init" in line 6. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. **Claims 1, 3, 4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hird (WO 01/071084) in view of Ando et al. (JP 2001-276484).**

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8. Claim 1 is to a washing machine comprising: a laundry tub, a water supply unit, an agitating unit, an ion eluting portion, a sensing portion and a control unit.

9. Regarding Claim 1, Hird discloses a washing machine with a laundry drum (Figure 1, part 50; page 3, lines 29-30), a water supply unit (21), an agitating unit (broadly and reasonably construed, this reads on the shaft for rotating the drum, 80, or the baffles, 65), a sensing portion ("a sensor which monitors the value of the mains supply voltage and a tacho T which monitors the speed of motor M") for detecting imbalances in the textiles (Figure 2, part T; page 6, lines 8-10), and a control unit ("controller" and "control software") for controlling an imbalance correction operation (Figure 2, parts 100 and 105; page 6, lines 1-2 and 23-27).

10. Hird does not explicitly disclose an ion eluting portion.

11. Ando discloses a washing machine with an ion eluting portion, namely silver electrodes for electrolytically adding silver ions to water for its antibacterial effect (machine translation, abstract; paragraphs 1-6).

12. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Hird, as taught by Ando, and to add the capability of eluting metal ions to the washer of Hird. One would have been motivated to do so in order to receive the expected benefit of having the antibacterial effect. It would also have been obvious to control the water supply unit, agitating unit and ion elution portion with the controller because it is well-known to control all aspects of washing machines with a controller for the predictable result of better control of the washing process.

13. In Claim 1, the phrases "in which laundry is put," "that supplies water to the laundry tub," "that agitates the laundry in the laundry tub," "for eluting metal ions...to water," "for sensing imbalance...the laundry tub," when no metal ion was supplied...perform a first balance correction rinsing" and "when metal ion was supplied...a second balance correction" are considered to be intended use of the apparatus and are not being given patentable weight. Additionally, Claims 3, 4 and 10, which depend from Claim 1, are also regarded as intended use. The claimed intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. The washer of Hird in view of Ando is capable of performing balance correction rinsing, of supplying different quantities of water or ions, and of agitating the laundry load.

14. Claim 11 is considered to be taught by Hird in view of Ando as applied above.

15. Specifically regarding Claim 11, Hird discloses a control panel (120) which connects to an interface (110) of the controller (100). The control panel has switches (121, 122) and others which are not explicitly discussed [0023]. This reads on the claimed selection unit. The specific way in which the claimed control unit would interpret a signal from the selection unit is considered intended use of the control unit and is not being given patentable weight. Because Hird discloses multiple switches, which could be used as claimed, it anticipates the claimed selection unit.

16. **Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hird (WO 01/071084), in view of Ando et al (JP 2001-276484), and further in view of Jeon et al. (US 6,286,344).**

17. Claims 5, 7, and 8 require a drum (Hird Figure 1, part 50) disposed so that a rotation axis thereof is slanted with respect to the vertical direction. Hird in view of Ando is relied upon as applied to Claims 1, 3, and 4, respectively. Hird in view of Ando does not expressly disclose tilting the washing drum so that a rotation axis is slanted with respect to a vertical direction.

18. Jeon discloses a washing machine having a "washing tub" (60) slanted with respect to a vertical direction (Figure 2). The tilted washing tub of Jeon makes adding and removing laundry to tub more convenient to a user (column 2, lines 61-67).

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hird, in view of Ando, as taught by Jeon, and to have the drum disposed so that a rotation axis is slanted with respect to a vertical direction. One would have been motivated to do so in order to gain the expected benefit of easy access to the tub for the user.

### ***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CORMIER whose telephone number is (571) 270-7386. The examiner can normally be reached on Monday - Thursday 8:30 - 6:00.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/  
Supervisory Patent Examiner, Art  
Unit 1792

/DGC/  
David Cormier  
01/20/2010